

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
SAMUEL LINDBLAD,
Defendant.

NO. CR-05-206-RHW-2
CV-09-1639-RHW

**ORDER DIRECTING THE
GOVERNMENT TO RESPOND**

Before the Court is Defendant's Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Ct. Rec. 153).

Defendant was found guilty by a jury of Conspiracy to Travel for the Purpose of Engaging in Illicit Sexual Act with a Minor, in violation of 18 U.S.C. § 2423(e) and Travel for the Purpose of Engaging in Sexual Act with a Minor, in violation of 18 U.S.C. § 2423(b). Defendant was sentenced to 360 months imprisonment, life term of supervised release and \$200 special assessment. Defendant appealed his verdict and sentence. On December 10, 2007, the Ninth Circuit affirmed the judgment.

DISCUSSION

I. Rule 4 Review

Under 28 U.S.C. § 2255, a federal prisoner may move the court to vacate, set aside, or correct his or her sentence on the grounds that (1) the sentence was imposed in violation of the Constitution or laws of the United States; (2) the court was without jurisdiction to impose such sentence; or (3) the sentence was in excess

1 of the maximum authorized by law. “Unless the motion and the files and records
2 of the case conclusively show that the prisoner is entitled to no relief, the court
3 shall cause notice thereof to be served upon the United States Attorney.” § 2255.
4 Pursuant to Rule 4(b), Rules Governing Proceedings in the United States District
5 Courts under Section 2255, the Court may, *sua sponte*, dismiss the motion if “it
6 plainly appears from the face of the motion, any attached exhibits, and the record
7 of the prior proceeding that the movant is not entitled to relief.”

8 **II. Defendant’s Claims**

9 In his petition, Defendant asserts seven grounds for relief:

10 (1) Defendant’s counsel was ineffective when he failed to consult or hire
11 experts for recording analysis, entrapment defense, and psychiatric opinion at
12 sentencing;

13 (2) Defendant’s counsel was ineffective when he failed to challenge the
14 indictment based on FBI misconduct;

15 (3) Defendant was convicted through the use of a manufactured
16 jurisdiction;

17 (4) Defendant’s counsel was ineffective when he failed to explore or
18 pursue entrapment defense;

19 (5) Defendant’s counsel was ineffective when he failed to move for
20 discovery in a timely manner for *Brady* material that was never disclosed or
21 untimely disclosed;

22 (6) Defendant was deprived of his right to counsel during critical stages
23 prior to trial; and

24 (7) Defendant’s counsel was ineffective when he failed to move for
25 suppression of audio records, or other timely challenges to in defense of
26 Defendant’s Fourth, Fifth, and Sixth Amendment rights.

27 The Court has reviewed the pleadings and cannot determine from the face of
28 the petition and accompanying exhibits that Defendant is not entitled to relief.

1 Accordingly, **IT IS HEREBY ORDERED**

2 1. Within 60 days from the date of the filing of this order, the Government
3 is directed to respond to Defendant's Motion to Vacate, Set Aside or Correct
4 Sentence by a Person in Federal Custody, 28 U.S.C. 2255.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order and forward copies to counsel.

7 **DATED** this 3rd day of February, 2010.

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10 *s/Robert H. Whaley*

11 ROBERT H. WHALEY
12 United States District Court
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